

## CHAPTER XXVII.

*An Act Providing for the Appointment of Notaries Public and Prescribing their Duties.*

- SECTION 1. Authorizes the appointment of Notaries Public, by the Governor, to be confirmed by the Senate.
2. Term of office to be two years—bond to be filed and an oath of office taken.
  3. Official Seal to be procured—form of seal.
  4. Powers of Notaries, to administer oaths, take and certify depositions, acknowledgments, deeds, and other instruments of writing.
  5. Manner of protesting Bills of Exchange or Notes.
  6. Instrument of Protest to be received as *prima facie* evidence by courts.
  7. Fees of Notaries—in taking depositions may compel the attendance of witnesses—sheriffs and constables to serve and return process.
  8. No Banker, Broker or officer, or agent of Bank, to be appointed Notary.
  9. Penalty for extortion, or unfaithful discharge of duty.
  10. Terms of office of Notaries heretofore appointed.
  11. Repeals Article 6, of Chapter 4, of Revised Statutes, and all amendments thereto.

*Be it enacted by the Legislature of the State of Minnesota :*

SECTION 1. That the Governor be and is hereby authorized to appoint and commission as Notaries Public, by and with the advice and consent of the Senate, as many citizens of this State, having the qualifications of electors, residing in the several counties of this State, as he may deem necessary.

Who may be appointed notaries

SEC. 2. That each Notary Public, so appointed and commissioned, shall hold his office for the term of two years, unless sooner removed by the Governor or the District Court; and that before entering upon the duties of his office, he shall give a bond to the State of Minnesota, in the sum of one thousand dollars, with security, to be approved by the Governor, conditioned for the faithful discharge of the duties of his office, and he shall take and subscribe an oath or affirmation, to be endorsed on his bond, that he will support the Constitution of the United States, and of this State, and that he will honestly, faithfully and impartially discharge and perform all the duties of his office to the best of his ability, and the same shall be deposited in the office of the Secretary of State.

Term of office  
Bond and oath of office

SEC. 3. That each Notary Public, before entering upon the duties of his office, shall provide himself with an official seal, with which he shall authenticate his official acts, upon which shall be engraved the Arms of this State, the words "Notarial Seal" and the name of the county [in] which he resides, which seal, together with his official register, shall be exempt from execution; and on the death or removal from office of such Notary Public, his register shall be deposited

Official seal—form

in the office of the Clerk of the District Court of the county in which such Notary resides; *Provided*, That it shall be lawful for any Notary Public, already duly commissioned and qualified as such, to use, in the authentication of his official acts, a seal of the similitude of those authorized by law previous to the passage of this Act; *And Provided further*, that whenever it shall be necessary for any such Notary Public to procure a new seal, such new seal shall be of the description hereinbefore designated.

**Powers of notaries**  
**Sec. 4** That each Notary Public so appointed, commissioned and qualified, shall have power, within this State, while residing within the county for which he was appointed, to administer all oaths required or authorized by law to be administered in this State, to take and certify depositions to be used in any of the Courts of this State, to take and certify to all acknowledgments of deeds, mortgages, lien, powers of attorney, and other instruments of writing, and to receive, make out and record notarial protests.

**Form of protesting notes**  
**Sec. 5.** It shall be the duty of each and every Notary Public, when any bill of exchange or promissory note be by him protested for non-acceptance or non-payment, to give notice thereof in writing to each party protested against, immediately after such protest shall have been made; and the Notary shall in such instrument of protest, certify to the time and manner of the service of such notice upon the several parties so protested against; and the Notary shall make record of such instrument of protest, in his official register, which record, or a duly certified copy thereof, shall be *prima facie* evidence of the facts therein contained.

**Instruments or protests to be received as prima facie evidence**  
**Sec. 6.** That the instrument of protest of any Notary Public, appointed and qualified under the laws of this State or the laws of any other State or Territory of the United States, accompanying any bill of exchange or promissory note, which has been protested by such Notary for non-acceptance or for non-payment, shall be held and received in all the Courts of this State as *prima facie* evidence of the facts therein certified: *Provided*, That any party may contradict, by other evidence, any such certificate.

**Fees for protests**  
**Sec. 7.** That for each oath or affirmation administered and certified, the Notary Public shall receive twenty-five cents, and no more; for the presentment, demand, notice to drawers and endorsers, and instrument of protest of each bill of exchange or promissory note, he shall receive the sum of one dollar; and for recording each instrument required by law to be recorded by him, ten cents for each one hundred words, and no more; for taking and certifying acknowledgements of deeds, mortgages, liens, powers of attorney, and other instruments of writing, and for the taking and certifying depositions, he shall receive the same fees as may be allowed by law to Justices of the Peace for similar services; and in taking depositions, he shall have the same power to compel the at-

**Fees for recording other instruments &c**

tendance of witnesses, and punish witnesses for refusing to testify, which may be vested by law, in Justices of the Peace; and all Sheriffs and Constables, and Sheriffs in this State, are hereby required to serve and return all process issued by such Notaries in taking depositions.

Power to compel attendance of witnesses

SEC. 8. That no banker, broker, or officer, stockholder, attorney, clerk, or agent of any bank, banker or broker, shall be appointed to or shall hold the office of Notary Public in this State.

No banker or other person connected therewith to be appointed

SEC. 9. That any Notary Public who shall charge or receive any fee or reward for any act or service done or rendered by him under this Act, greater than the amount herein limited, or who shall dishonestly or unfaithfully discharge any of his duties as Notary Public, shall on complaint filed and substantiated in like manner as other cases, in the District Court of the county in which he resides, be removed from his said office by such Court; and the Court shall thereupon certify the fact of such removal to the Governor, and the party so removed shall be thereafter ineligible to a reappointment to the office of Notary Public in this State.

Overcharging fees or malfeasance in office subject to removal from office

SEC. 10. The term of office for all Notaries Public appointed prior to the 25th day of May, A. D. 1858, shall expire on the 31st day of July, A. D. 1858.

Previous commissions to expire

SEC. 11. That Article six of Chapter four of the Revised Statutes, and all amendments thereto, and all acts and parts of acts inconsistent with this Act, be and are hereby repealed.

Repeal of art 6 chap 4 revised statutes

SEC. 12. This Act shall take effect and be in force from and after its passage.

GEORGE BRADLEY,  
Speaker of the House of Representatives.  
WILLIAM HOLCOMBE,  
President of the Senate.

APPROVED—July twenty-sixth, eighteen hundred and fifty-eight.

HENRY H. SIBLEY.

SECRETARY'S OFFICE, Minnesota, }  
July 26, 1858. }

I hereby certify the foregoing to be a true copy of the original on file in this office.

FRANCIS BAASEN, Secretary of State.